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BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2009-1440

IVETH A. ZEA  
5358 Imperial Avenue, #1  
San Diego, CA 921114

Vocational Nurse License No.  
VN 228266

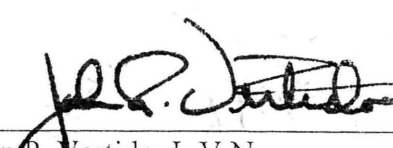
Respondent.

**DECISION**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 15, 2011.

IT IS SO ORDERED this 15<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
John P. Vertido, L.V.N.  
President

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
4 State Bar No. 126461  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2996  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2009-1440

12 **IVETH A. ZEA**  
13 **5358 Imperial Avenue, #1**  
14 **San Diego, CA 921114**

OAH No. 2011020327

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 **Vocational Nurse License No. VN 228266**

16 Respondent.

17  
18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 PARTIES

22 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the  
23 Board of Vocational Nursing and Psychiatric Technicians. She brought this action solely in her  
24 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the  
25 State of California, by Desiree I. Kellogg, Deputy Attorney General.

26 2. Iveth A. Zea (Respondent) is represented in this proceeding by attorney Thomas J.  
27 McDonnell, whose address is 13620 Lincoln Way, Suite 220, Auburn, CA 95603.  
28

3. On or about June 22, 2007, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License No. VN 228266 to Iveth A. Zea (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. VN-2009-1440 and expired on January 31, 2011.

## JURISDICTION

4. Accusation No. VN-2009-1440 was filed before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 11, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. VN-2009-1440 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. VN-2009-1440. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. VN-2009-1440, agrees that cause exists for discipline and hereby surrenders her Vocational  
4 Nurse License No. VN 228266 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the Board to issue  
6 an order accepting the surrender of her Vocational Nurse License without further process.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Vocational Nursing and  
9 Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and  
10 the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate  
11 directly with the Board regarding this stipulation and surrender, without notice to or participation  
12 by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees  
13 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the  
14 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and  
15 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for  
16 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall  
17 not be disqualified from further action by having considered this matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
19 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
20 the originals.

21 12. This Stipulated Surrender of License and Order is intended by the parties to be an  
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
24 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
25 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
26 executed by an authorized representative of each of the parties.

27 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
28 the Board may, without further notice or formal proceeding, issue and enter the following Order:

**ORDER**

IT IS HEREBY ORDERED that Vocational Nurse License No. VN 228266, issued to Respondent Iveth A. Zea, is surrendered and accepted by the Board of Vocational Nursing and Psychiatric Technicians.

14. The surrender of Respondent's Vocational Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a licensed vocational nurse in California as of the effective date of the Board's Decision and Order.

16. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

17. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. VN-2009-1440 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

18. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,820.00 prior to filing a petition for reinstatement. Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

19. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. VN-2009-1440 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

20. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board of Vocational Nursing and Psychiatric Technicians' Decision and Order.

## ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Thomas J. McDonnell. I understand the stipulation and the effect it will have on my Vocational Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Vocational Nursing and Psychiatric Technicians.

DATED:

4/1/11

IVETH A. ZEA  
Respondent

I have read and fully discussed with Respondent Iveth A. Zea the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

4.6.11

THOMAS J. MCDONNELL  
Attorney for Respondent

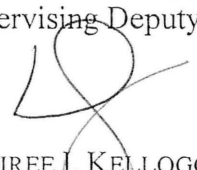
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of the Department of Consumer Affairs.

Dated: ~~March~~ <sup>April</sup> 17 2011

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
DESIREE I. KELLOGG  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. VN-2009-1440**



FILED

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS,  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER, STATE BAR NO. 101336  
Supervising Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5 P.O. Box 85266  
San Diego, CA 92186-5266  
6 Telephone: (619) 645-3037  
Facsimile: (619) 645-2061  
7 *Attorneys for Complainant*

Board of Vocational Nursing  
and Psychiatric Technicians

8 BEFORE THE  
9 BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2009-1440

12 IVETH A. ZEA, LVN  
#9783123  
13 325 S. Melrose Drive  
Vista, CA 92081

ACCUSATION

14 Vocational Nurse No. VN 228266

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
21 Technicians, Department of Consumer Affairs.

22 2. On or about June 22, 2007, the Board of Vocational Nursing and Psychiatric  
23 Technicians issued Vocational Nurse Number VN 228266 to Iveth A. Zea (Respondent). The  
24 Vocational Nurse License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on January 31, 2011, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118(b) of the Business and Professions Code (Code) provides:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2892.1 of the Code states, in pertinent part:

Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration upon filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of any fees due pursuant to Section 2895.1.

....

## STATUTORY PROVISIONS

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code provides, in pertinent part, that the record of conviction of a crime shall be conclusive evidence of the facts that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

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1       9.     Section 2878 of the Code states:

2             The Board may suspend or revoke a license issued under this chapter [the  
3     Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the  
4     following:

5             (a) Unprofessional conduct, which includes, but is not limited to, the  
6     following:

7             ....

8             (f) Conviction of a crime substantially related to the qualifications, functions,  
9     and duties of a licensed vocational nurse, in which event the record of the conviction  
10    shall be conclusive evidence of the conviction.

11            ....

12            (j) The commission of any act involving dishonesty, when that action is related  
13    to the duties and functions of the licensee.

14            ....

15       10.    Section 2878.5 of the Code states, in pertinent part:

16            In addition to other acts constituting unprofessional conduct within the meaning of this  
17    chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed  
18    under this chapter to do any of the following:

19            (b) Use any controlled substance as defined in Division 10 of the Health and  
20    Safety Code, or any dangerous drug as defined in Article 8 (commencing with  
21    Section 4210) of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an  
22    extent or in a manner dangerous or injurious to himself or herself, any other person,  
23    or the public, or to the extent that such use impairs his or her ability to conduct with  
24    safety to the public the practice authorized by his or her license.

25            ....

26            (c) Be convicted of a criminal offense involving possession of any narcotic or  
27    dangerous drug, or the prescription, consumption, or self-administration of any of the  
28    substances described in subdivisions (a) and (b) of this section, in which event the  
29    record of the conviction is conclusive evidence thereof.

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 2518.6, states:

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

(4) Abstaining from chemical/substance abuse; and

(c) A violation of this section constitutes unprofessional conduct for purposes of initiating a disciplinary action.

12. California Code of Regulations, title 16, section 2521, states, in pertinent part:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

///

1 13. California Code of Regulations, title 16, section 2522 states, in pertinent part:

2 When considering . . . b) the suspension or revocation of a license on the  
3 ground that a licensee has been convicted of a crime, . . . the Board in evaluating the  
4 rehabilitation of an individual and his or her present eligibility for a license, will  
5 consider the following criteria:

6 (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.

7 (2) Actual or potential harm to the public.

8 (3) Actual or potential harm to any patient.

9 (4) Overall disciplinary record.

10 (5) Overall criminal actions taken by any federal, state or local agency or court.

11 (6) Prior warnings on record or prior remediation.

12 (7) Number and variety of current violations.

13 (8) Mitigation evidence.

14 (9) In case of a criminal conviction, compliance with terms of sentence and/or  
15 court-ordered probation.

16 (10) Time passed since the act(s) or offense(s) occurred.

17 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to  
18 Penal Code section 1203.4.

19 (12) Cooperation with the Board and other law enforcement or regulatory  
20 agencies.

21 (13) Other rehabilitation evidence.

#### 22 COST RECOVERY

23 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licensee found to have committed a violation or violations of  
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
26 enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(January 15, 2010 Criminal Convictions for Driving Under the Influence of Alcohol With BAC Over 0.08% [0.20% BAC] and Gross Vehicular Manslaughter on October 25, 2009)

15. Respondent is subject to disciplinary action under Code sections 490 and 2878, subdivision (f), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

16. On or about January 15, 2010, in *People v. Iveth Zea*, in the Superior Court of California, County of San Diego, Central Division, in Case No. CD 223627, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152(b) (Driving With Blood Alcohol Level of 0.08% or Above), and Penal Code section 191.5(a), (Gross Vehicular Manslaughter), felonies.

17. The facts that led to Respondent's conviction are that on October 25, 2009, Respondent drove a vehicle after drinking alcohol with a blood alcohol content of 0.20%, at a high rate of speed (90 miles per hour) on Miramar Road in San Diego, California, which had a posted speed limit of 50 miles per hour. Respondent's vehicle was involved in a one-car collision striking a cinder block wall, several steel poles, a gas and electric transformer and a tree, which ejected Respondent's rear seat passenger, N.Z. from the vehicle. N.Z. sustained fatal injuries. Respondent's other passenger, C.P., sustained serious injuries which included a skull fracture.

18. As a result of the convictions, Respondent was sentenced to serve 365 days in the county jail, with 130 days credit for time served, with no early release from county jail or parole, and placed on five years formal probation, said probation to expire on March 2, 2015. Respondent was also ordered to pay various fees and fines, obey all laws, have photo identification card on her person at all times, ordered to report to the parole officer within 72 hours from the time of release from custody, provide true name, address and date of birth if contacted by law enforcement, obtain parole officer's consent before leaving San Diego County, and submit to search and seizure. Respondent was additionally ordered to not take psychotropic medications unless prescribed by a doctor, ordered to participate in treatment, therapy, counseling

1 or other course of conduct as suggested by validated assessment tests, provide written  
2 authorization for parole officer to receive progress and/or compliance reports from any  
3 medical/mental health care provider, attend and successfully complete substance abuse (alcohol)  
4 counseling program approved by the parole officer, attend and complete a DUI Victim Impact  
5 Panel, not use or possess alcohol if directed by the parole officer, attend self-help meetings if  
6 directed by the parole officer, enroll within 30 days and satisfactorily complete a 9-month First  
7 Conviction Program, take antabuse (as determined by a licensed physician) if directed by the  
8 parole officer until excused (if physically unable to take antabuse, the court ordered that a doctor  
9 must submit letter to the court), and to submit to any chemical test of blood, breath, or urine to  
10 determine blood alcohol content and authorize release of results to the parole officer or the court  
11 whenever requested by law enforcement. Respondent was further ordered to surrender her  
12 driver's license to the court for forwarding to the DMV under Vehicle Code section 13352, and to  
13 not frequent places where alcohol is the main item for sale, except in the course of employment,  
14 participate in and comply with a continuous alcohol monitoring device if directed by the parole  
15 officer, not drive a motor vehicle unless licensed and insured, complete a program of residential  
16 treatment and aftercare as directed by the parole officer, not use or possess any controlled  
17 substance without a valid prescription, and to pay parole costs.

## 18 SECOND CAUSE FOR DISCIPLINE

### 19 (Unprofessional Conduct – Use of Drugs or Alcohol in a Dangerous Manner)

20  
21 19. Respondent is subject to disciplinary action under Code section 2878(a) on the  
22 grounds of unprofessional conduct, as defined by Code section 2878.5(b) in that on or about  
23 October 25, 2009, she drove a motor vehicle with a blood alcohol content exceeding 0.08%,  
24 endangering herself and others, causing death and serious injury to her passengers, as is more  
25 fully detailed at paragraphs 15 through 18, above, which are incorporated here by reference.

26 ///

27 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Conviction of a Drug or Alcohol Related Crime)

3 20. Respondent is subject to disciplinary action under Code section 2878(a) on the  
4 grounds of unprofessional conduct, as defined by Code section 2878.5(c) in that on or about  
5 January 26, 2010, she was convicted of driving with a blood alcohol level of 0.08% or above, and  
6 gross vehicular manslaughter, crimes involving use of alcohol, as is more fully detailed at  
7 paragraphs 15 through 18, above, which are incorporated here by reference.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct – Failure to Abstain From Chemical/Substance Abuse)

10 21. Respondent is subject to disciplinary action under Code section 2878(a) on the  
11 grounds of unprofessional conduct, as defined by California Code of Regulations, title 16, section  
12 2518.6(b)(4), in that she failed to abstain from chemical/substance abuse, as evidenced by her use  
13 of alcohol in a dangerous manner causing serious injury and death, as is more fully detailed in  
14 paragraphs 17, above, which is incorporated here by reference.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse Number VN 228266, issued to Iveth A. Zea;
2. Ordering Iveth A. Zea, to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: November 23, 2010

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

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